

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

3:10cv213
(3:07cr45)

ANTHONY EUGENE BOYD,)
)
 Petitioner,)
)
 v.)
)
 UNITED STATES OF AMERICA,)
)
 Respondent.)
 _____)

ORDER and NOTICE

THIS MATTER is before the Court upon Respondent's Motion for Summary Judgment.
(Doc. No. 7).

In accordance with Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the Court advises
Petitioner, who is proceeding pro se, of the heavy burden that he carries in responding to
Respondent's Motion for Summary Judgment.

Rule 56(e)(2), Federal Rules of Civil Procedure, provides:

When a motion for summary judgment is properly made and supported, an opposing party may not rely merely on allegations or denials in its own pleading; rather, its response must - by affidavits or as otherwise provided in this rule - set out specific facts showing a genuine issue for trial. If the opposing party does not so respond, summary judgment should, if appropriate, be entered against the adverse party.

This language means that if Petitioner has any evidence to offer to show that there is a genuine issue for trial, he must now present it to this Court in a form which would otherwise be admissible at trial, that is, in the form of affidavits or sworn declarations. An affidavit is a written statement, made on personal knowledge and sworn before a notary public. A sworn

declaration, made and signed under the penalty of perjury, also may be submitted. Affidavits or sworn statements must be presented by Petitioner to this Court within thirty (30) days of the entry of this Order. As stated by Rule 56(e)(2), Petitioner's failure to respond may result in granting summary judgment to Respondent, that is, the dismissal of the Motion to Vacate with prejudice.

IT IS, THEREFORE, ORDERED that Petitioner has thirty (30) days from the entry of this Order to file his response, including any evidence, to Respondent's Motion for Summary Judgment.

The Clerk is directed to send copies of this Order and Notice to the parties, including Anthony Eugene Boyd, Reg. No. 21156-058, Elkton Federal Correctional Institution, Inmate Mail, P.O. Box 10, Lisbon, OH 44432.

Signed: December 1, 2010

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

